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Before The  
**FEDERAL COMMUNICATIONS COMMISSION**  
Washington, D.C.

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FCC - MAILROOM

In the Matter of ) MB Docket No. 02-248  
Amendment of Section 73.202(b) )  
Table of Allotments ) RM-10537  
FM Broadcast Stations )  
Smiley, Texas )

To: Assistant Chief, Audio Division  
Office of Broadcast License Policy  
Media Bureau

**MOTION TO STRIKE LATE-FILED "REPLY"**

Respectfully submitted,

NEW ULM BROADCASTING COMPANY

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Its Counsel

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January 16, 2003

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## S U M M A R Y

On December 20, 2002, Linda Crawford filed a "Motion For Leave To File Reply" that was nine days late after the due date for that pleading. The sole basis of the request to file late was based upon the alleged "last minute delay [which] occurred upon discovery of the need for preparation of the engineering Exhibit C..." Reference to Crawford's Exhibit C revealed that it was nothing more than 11 pages printed directly from an internet site. Moreover, the date on the internet pages was 12-18-02, seven days after the required date for Crawford's Reply. If that date was indeed the actual date of Crawford's "discovery" it was at least one week AFTER the due date of the Reply and could not possibly be considered as a reason that the Reply had not been timely filed. On the other hand, if Crawford were to suggest that she actually experienced her "discovery on or before the Reply due date, then that would mean that it then took her 9 days to copy the eleven pages and file them with the FCC. New Ulm Broadcasting suggests that the Motion is unbelievable and defective on its face, no matter which of those scenarios applies (Crawford neglected to indicate the exact date of her "discovery") and that the Motion should not only be denied and the Reply dismissed, but, in view of a prior "extra pleading" filed by Crawford and the patent and indisputable utter lack of substantive merit in the late Reply as proffered, that Crawford's actions constitute abuse of process and that Crawford should be admonished for her actions and to comply with FCC Rules.

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To: Assistant Chief, Audio Division  
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**MOTION TO STRIKE LATE FILED "REPLY"**

On December 20, 2002 <sup>1</sup>/ Linda Crawford (hereinafter "Linda Crawford" or "**Crawford**") filed *a* Motion **For** Leave To File Reply [nine days late], along with an accompanying "Reply to Opposition to Linda Crawford Response". For the reasons set forth below, New Ulm Broadcasting Company (hereinafter "New Ulm") moves to deny the Motion for an utter lack of good cause shown, to strike the proffered Reply, and to admonish Crawford to observe the Commission's procedural rules which govern this proceeding. In support whereof, the following is submitted:

**I. Background**

On August 30, 2002, the Commission issued its Notice of Proposed Rulemaking in this proceeding (DA 02-2061) providing a date at that time for Comments and Counterproposals (October 21, 2002) and for Reply Comments (November 5, 2002). The parties, including Linda Crawford, filed Comments and Reply Comments

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<sup>1</sup>/ See footnote 2

consistent with those specified dates and that should have completed the pleading cycle in this proceeding.

Ten days after the pleading cycle closed, however, Crawford proceeded to file an additional pleading styled as a "Response". Thereafter on November 29, **2002**, New Ulm proceeded to file an **"Opposition"** to Crawford's additional pleading arguing that it was unacceptable both procedurally (that Crawford could then have argued her points in her prior pleading on matters that were already before her) and on substance, there being none. Consistent with 47 CFR 1.45, Crawford could have filed a Reply to the matters addressed in New **Ulm's** Opposition, and had until December 11, **2002**, to do so. Crawford specifically recognized this as being the applicable due date required by Section 1.45 of the Commission's rules (see second sentence of Crawford Motion). She did not, and any further pleading was then foreclosed to her as of that date.

Having already flouted the rules once by filing her additional "Response" pleading, Crawford has now proceeded to further subrogate the FCC's procedural rules by now presuming to file what she styles as her **"Reply"** pleading on December 20, 2002, almost a week and **a** half after the due date for any such

"Reply". 2/ Moreover, the **"centerpiece"** of the "Reply" is a new attack upon an engineering claim made by New Ulm in its original Comments and Counterproposal as filed on October 21, 2002, and, amazingly, Crawford relies upon this 'preparation' of this new 'argument' as the sole basis for why she was over a week late in filing her **"Reply"**. 3/ The argument is **so** specious and lacking in substantive merit that it is simply stunning that it was not only advanced at all but that it was also the stated "excuse" as to why Crawford needed over an additional week to put together and file her Reply. All told, and for the reasons more fully stated below, we submit that Crawford's actions constitute a clear abuse of the Commission's processes and should be recognized as such, and that the Motion should be denied for an utter lack of good cause shown, and the Reply dismissed.

II. Crawford's Reliance Upon an Alleged **"Last-Minute Delay"** That Required Nine Additional Days For Preparation of Her Engineering Exhibit C **Has No Conceivable Basis In Fact And Is not Only Unbelievable, But So Obviously So, That It Constitutes, In And Of Itself, A Clear Abuse Of the Commission's Processes**

To Begin with, the gist of Crawford's **"Reply"** is her new assertion, first raised by her there, that the New Ulm claim of

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2/ We note here that Crawford's **"Reply"** was dated December 19, 2002 (which would make it only a week and one day late) and **in** the Certificate of Service Crawford also **"certifies"** that the pleading was served on that same date. That representation apparently was not correct. Attached hereto is a copy of the envelope in which the "Reply" was received bearing the postmark of **"December 20, 2002"**, a day after the date of service as **"certified"** by Crawford.

3/ Other "arguments" were also added in Crawford's Reply but were themselves non-responsive or irrelevant to the matters already raised and dispositively addressed in New Ulm's Opposition and will not be further discussed here.

"white area" encompassing all of the town of Schulenburg, as well as some contiguous areas, is not true or as put by Crawford, "a bogus claim". The claim of white area was specifically and clearly made by New Ulm in its Comments and Counterproposal as filed in this proceeding on October 21, 2002, and Crawford was required to make any argument to the contrary in her Reply pleading as filed on November 5, 2002. She did not. Moreover, despite the fact that Crawford actually presumed to file an additional unauthorized "Response" pleading ten days later on November 15, 2002, even that extra pleading did not contain any argument as to the white area claim made by New Ulm in its original October 21 Comments.

Comes now Crawford with a "Reply" pleading filed nine days late and including a brand new argument by Crawford suggesting for the first time that the "white area" claim by New Ulm was a "bogus claim" and that "New Ulm's Counterproposal will not result in service to either a "white area" or "gray area" ((Crawford Motion for Leave to File Reply, emphasis and quotation marks in original). Pretty heady stuff there, and a pretty strong allegation to make, which one would normally expect would not be made lightly or without sound engineering support. In this case, "one" would be totally wrong since the claim is utterly false, if not ludicrous, and contrary to established FCC rules which conclusively determine radio station coverage contours which determine "white areas" as recognized by the Federal communications Commission.

So what did Crawford rely upon for her claim? Reference to her Exhibit C confirms that her argument is based not upon an independent engineering analyses consistent with FCC Rules 73.315 or 73.24, but rather upon her apparent eleventh hour search of an internet site by the name of "Radio-Locator". In fact, her "Exhibit C consists solely of 11 pages copied from that Internet Site which claims to provide information as to "stations within close listening range" of any selected location. It is also noteworthy that this Internet site does not claim that the listed stations meet the FCC's determination of what constitutes a recognizable "service" and in fact show station contours out to 0.15 mv/m for AM and 40 dbu for FM, well beyond anything ever recognized in the FCC rules as constituting a recognizable "service" in either band. Moreover, the last two pages of Crawford's Exhibit C include further qualifications by the Internet site as to the accuracy of what it depicts, based upon various unknown factors (see especially paragraph 6).

Leaving aside, for the moment, a further analyses of the "substance" of what "Crawford claims to be a "critical error [by New Ulm]"leading to its "bogus claim" of white area, let us look now at the preparation of Exhibit C as grounds for Crawford filing her Reply almost a week and one-half after it was due. According to Crawford, "A last-minute delay occurred upon discovery of the need for preparation of the engineering Exhibit C..." The Commission can see as well as anyone else that Crawford's "Exhibit C" consists solely of 11 pages copied from an internet site. So how long would that take? 30 minutes for a



slow computer? How on earth can Crawford seriously argue that preparation of her "Exhibit C" required NINE DAYS beyond the required filing date for her Reply? How could she seriously argue to the Commission in good faith that the "last-minute delay" associated with preparing her "Exhibit C" accounted for her being nine days late in filing her Reply? Crawford likes to use the word "bogus" and that would surely seem to fit here.

At the same time it must be recognized that an even worse scenario might apply here since the bottom line of the internet reprint pages show a date of December 18, 2002. If in fact that is the actual date when Crawford suffered her epiphany and "last-minute delay" that would mean that her "last minute delay" occurred over a week after the due date for her Reply had already expired. More specifically, that her stated reason, as indicated by Crawford in her Motion to the Federal Communications Commission, as her reason for failing to file her Reply on time did not even exist on that filing date, nor in fact for over a week AFTER that filing date. That would then lead to two inescapable conclusions: first, that Crawford had no reason not to file whatever she wished to file in Reply as of the required date, and simply did not do so: and second, that the reason stated in her Motion as the basis for her failure to file a Reply on the required date was simply nonexistent and false.

Again, the only alternative to that more likely scenario is that she somehow actually "knew" of the internet site pages before the Reply filing date, but then took nine days to prepare

(i.e. "print") her "last-minute" exhibit. Even in the unlikely event that were so, there is simply no way on earth that Crawford's alleged "last minute" need to prepare her Exhibit C could be the basis of a nine day delay in filing her Reply. Only Crawford knows which of these equally unacceptable scenarios applies here but it is truly a "Hobson's choice" where on either basis alone, her "Motion For Leave to File Reply" should not only be rejected, but rejected in the strongest terms with a very strong admonition directed against her actions in filing it at all.

III. It Is Contrary to FCC Rules and Policies For Crawford to Seek to Raise a New Issue At This Point in the Proceeding.

As previously noted, New Ulm clearly stated its claim of "white area" in its Comments and Counterproposal filed in this proceeding on October 21, **2002**. Having done so, Crawford was then free to make whatever counter-argument she might wish to, whether internet sites or Tarot cards or anything in between, when she filed her Reply. She did not. Moreover, even when she presumed to file an additional pleading in this case, after the established pleading cycle had been completed, she still said not one word as to New Ulm's claim of "white area" for Schulenburg. For her then to seek to raise such a new argument here for the first time, as a centerpiece of her Reply, with no explanation at all as to why she could not have advanced such an argument at the proper and required time, and which itself was then filed nine days late, is so patently outrageous as to constitute a clear abuse of the Commission's established rules which govern these

proceedings and Crawford should be held to account for her unacceptable actions.

IV. Crawford's Argument Is So Utterly Devoid of any Arguable Substance That The Filing Itself Constitutes a Wasteful and Unnecessary Burden upon Commission Resources.

As recognized above, Crawford could have raised whatever argument she chose to make within the established rules of procedure for this docket. Had she chosen to submit an argument seeking to trump FCC rules and procedures with her internet site, she could have done so in her Reply and, for what it is worth, her arguments would have then been in the case. That was her right to do, no matter what she wished to argue. But she did not do so and proceeded to add further extraneous arguments in an unauthorized Response pleading filed ten days after the normal pleading cycle ended. New Ulm opposed that Response on procedural and substantive grounds in an opposition properly filed within the time set forth in the FCC rules, and Crawford likewise had the opportunity to file a Reply to that Opposition.

Nine days after the due date of any such Reply, Crawford files a pleading which claims to include an engineering exhibit of such complexity that it took her nine days past the due date for the Reply to get it done and filed. She claims that her new engineering exhibit will prove that the "white area" claim made by New Ulm in its original Comments and Counterproposal was in fact a "bogus claim" and that the "public interest is served by Commission receipt and consideration of evidence of this critical error prior to arriving at its 307(b) determination in this

matter". For all intents and purposes, it sounds like Crawford has found the "smoking gun".

In fact though, it takes just about 30 seconds of review of Crawford's Exhibit C to find that the "smoking gun" is made of bubble gum, an outrageous joke, not to merit serious consideration. Crawford's very serious charge being that New Ulm's engineering was wrong and that rather than "white area", Schulenburg was actually "served" by no less than 7 AM and one FM station. Whoops, that is certainly a far cry from "white area", so somebody must be REALLY wrong. Is it New Ulm or is it Crawford? New Ulm's claim was based upon an engineering analyses conducted by a registered and experienced Electrical Engineer, whose qualifications are on file with the Commission, consistent with FCC rules that define and govern exactly what constitutes radio "service". Based upon such analyses, as set forth in the Comments and Counterproposal filed by New Ulm on October 21, 2002, New Ulm claimed "white area" for all of Schulenburg as well as an additional contiguous area.

By contrast, Crawford now comes forward to declare that the New Ulm claim is "bogus" and that Schulenburg receives a recognizable radio service from no less than seven AM and one FM station. On what does she base such a dramatic claim? There is no indication of any engineering training at all, let alone a degree, for Crawford. Her "engineering exhibit" is not accompanied by certification by any engineer or engineering consultant, and consists solely of pages copied from an internet

site which includes radio stations with signal strength as low as 0.15 mv/m for AM and 40 dbu for FM, far lower than anything recognized under FCC rules as constituting a recognizable **"service"**. Nor does the internet site make any claim or suggestion that the stations it lists meet FCC criteria defining "service" .

Having thus made her reckless and untrue claims as to the accuracy of the white area representations by New Ulm, New Ulm is constrained to include here for the record an analyses by its Professional Engineer (attached hereto as Engineering Exhibit) applying applicable FCC Rules, of each and every one of the eight stations alleged by Crawford to provide a recognizable **"service"** to Schulenburg, and conclusively showing that not a single one of her claims is true. Not a single one.

Nonetheless, based solely upon her internet **"research"**, and only that, Crawford had no reluctance to declare the "white area" claim by New Ulm as **"bogus"**. To make such a reckless and untrue claim in the absence of a scintilla of legitimate engineering evidence to the contrary is simply unconscionable and wasteful of the time and energy of the parties as well as the Commission itself and it simply should not be countenanced.

V. Crawford ~~Must~~ be Held Accountable For  
Compliance With FCC Rules

It is submitted that Crawford's **"Motion** For Leave To File Reply" is so patently absurd, unbelievable, and devoid of any semblance of "good cause" (relying upon an **"excuse"** that did not even exist until over a week after the Reply was due OR where it

took Crawford nine days to copy 11 pages from her internet source, take your pick), that it would conceivably support a complaint under Rule 11 of the Federal Rules of Civil Procedure as an obviously "frivolous pleading", but for the fact that Crawford is apparently not subject to the jurisdiction of any State bar. Similarly, her reckless and baseless pejorative attack upon the bona fides of New Ulm's Engineering Exhibit might conceivably be grounds for a complaint to those who license engineers, but for the fact that Crawford is not an engineer either.

It appears that she has filed her pleading pro se but even that fact does not absolve Crawford from observing and complying with at least the minimal standards of the Commission's rules and procedures. "An applicant who proceeds without counsel does so at its own risk and " must assume the burden of becoming acquainted with, and conforming to the requirements of our rules". Silver Beehive Telephone Co., 34 FCC 2d 738, 739 (1972). And, while the Commission recognizes "that the ramblings and confused pleadings of litigious pro se parties are entitled to patient analyses and reasoned decision" (Christian Children's Network, Inc., 1 FCC Rcd 982 (1986)), pro se parties, however, still must comply with the Commission's Rules and Policies", Mandeville Broadcasting Corp., 2 FCC Rcd 2523, 2524 (1987). See also FCC Inquiry Into Alleged Abuse Of Commission's Processes by Applicants for Broadcast Facilities, MM Docket 88-374 (1989).

In this proceeding, Crawford chose to file an additional pleading ("Response") ten days after the pleading cycle was closed, contrary to FCC Rule 1.415(d) which specifically prohibits such "additional comments...unless specifically requested or authorized by the Commission", and contrary to long-standing FCC policy against such additional pleadings "except in the most compelling and unusual circumstances..." D.H. Overmeyer Communications Co., 4 FCC 2d 496, 505 (1966). Crawford then followed up on that by presuming to file a **"Reply"** pleading to the New Ulm Opposition to her "Response", nine days late based upon an **"excuse"** for its lateness that is, on its face, ludicrous and unbelievable, and then presuming to include in its late **"Reply"** a new and totally wrong and baseless argument as to New Ulm's claimed "white area" that should have been addressed, if at all, over a month and one-half earlier within the established pleading cycle. Crawford did not even address its noncompliance with that requirement. Enough is enough. There is no excuse for Crawford's actions and her Motion should be denied, her late **"reply"** dismissed, and she should be admonished to henceforth comply with all of the Commission's Rules applicable to this proceeding.

## **VI. Conclusion**

It is understood that in a proceeding such as this, every party should have the right to make its arguments as they see fit to do so but, at the same time, no party is above the law or entitled to special exemptions from filing such arguments in a

timely fashion and within the time frames set by the Commission's rules to govern all parties to the proceeding. Nor is Linda Crawford a newcomer to such proceedings or unaware of the rules which govern them. In the Notice of Proposed Rulemaking issued in this proceeding (DA 02-2061) alone, Linda Crawford was listed as the Petitioner in a total of eight of the ten different petitions, including the one for Smiley. On information and belief it is believed that she is also the Petitioner in many more such cases as set forth in other Notices of Proposed Rulemaking. As such, she can neither claim ignorance of the rules nor evade the jurisdiction of the FCC to take note of her actions, such as they have been in this case, which are clearly and consistently contrary to such rules.

Crawford's claim for the right to file an additional **"Response"** pleading was baseless, as demonstrated in New Ulm's Opposition to that additional pleading; the **"excuse"** that she then proffered to the Commission to justify filing her Reply pleading nine days late due to a "last minute-delay" either did not exist at the time of her due date for the Reply (or for over a week thereafter) or required nine days to prepare an engineering exhibit which consisted solely of 11 pages reprinted from an internet site and, in either case, is patently absurd and unbelievable; her alleged **"substantive"** basis for that late filing is equally absurd in seeking to "trump" an analyses by a professional engineer of application of the FCC's rules defining **"service"** with her reprint from the internet site which has no reference to those rules and is totally irrelevant to



determination of the issue: her attempt to raise this nonexistent issue over a month and one-half after any such claim would have been due to be made in this proceeding is simply illegal, unexplained, and unacceptable.

For the reasons stated herein, the Motion For Leave to File Reply (late), should be summarily denied as utterly lacking in good cause shown, and the accompanying Reply to Opposition to Linda Crawford Response should be summarily stricken, and Crawford admonished for filing a pleading so clearly lacking in basis. Moreover, should Crawford decide to file an Opposition to this Motion to Strike, we request that she be required to specifically address the following points:

1. Does she have any evidence to support a claim that her internet site was not existent and available to her as of November 5, 2002, the date that Reply Comments were due in this proceeding:

2. When did she undergo her "last-minute delay" (the exact date), and having then **"discovered"** her alleged need for her Engineering exhibit, if that date was subsequent to the required November 11, 2002, filing date for her Reply, how did that subsequent **"discovery"** influence her failure to file her Reply on November 11, 2002? If the "discovery date was on or before November 11, 2002, why did it then take nine days (or more) to print the 11 pages of her Engineering Exhibit C?

3. How does she account for the discrepancy between her sworn "certification" of the service date for her pleading and the post-office cancellation that it was not really sent that date but actually sent a day later?

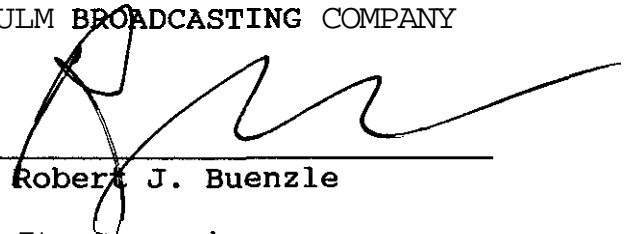
4. On what basis did Crawford conclude that the information provided by her internet site was relevant to this proceeding and superseded the specific rules that govern "service" as defined by the Federal Communications Commission as described and set forth in New Ulm's Comments and Counterproposal as filed on October 21, 2002.

WHEREFORE, New Ulm submits that there is absolutely no good cause shown as a basis for grant of Crawford's Motion, that it should therefore be summarily denied and the **"Reply"** dismissed without further consideration and Crawford admonished to henceforth comply with the Commission's published procedural rules.

Respectfully submitted,

NEW ULM BROADCASTING COMPANY

by

  
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Its Counsel

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January 16, 2003

New Ulm Broadcasting Company  
Motion To Strike  
MB Docket No. 02-248  
January 16, 2003

**EXHIBIT 1**

Copy Of Mailing Envelope of Linda Crawford Motion and Late-Filed  
Reply showing Post Office cancellation of December 20, 2002.

Linda Crawford  
3500 Maple Avenue, #1320  
Dallas, Texas 75219



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DEC

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PM

DALLAS TX 752

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Robert J. Buenzle  
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Reston, Virginia 20190

New Ulm Broadcasting Company  
Motion To Strike  
MB Docket No. 02-248  
January 16, 2003

**NEW ULM ENGINEERING EXHIBIT**

New Ulm Broadcasting  
1110 West William Cannon Drive  
Austin, TX 78745

**Engineering Statement in**  
support of  
**Motion to Strike Late-Filed “Reply”**  
MM Docket 02-248

January 2003

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F. W. Hannel, PE  
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STATE OF ARIZONA            )  
                                  )  
COUNTY OF MARICOPA        )           SS :

E. W. Hannel, after being duly sworn upon oath,  
deposes and states:

He is a registered Professional Engineer, by  
examination, in the State of Illinois;

He is a graduate Electrical Engineer, holding  
Bachelor of Science and Master of Science degrees, both in  
Electrical Engineering;

His qualifications are a matter of public record  
and  
have been accepted in prior filings and appearances  
requiring  
scrutiny of his professional qualifications;

The attached Engineering Report was prepared by  
him  
personally or under his supervision and direction and;

The facts stated herein are true, correct, and  
complete to the best of his knowledge and belief.



January 14, 2003

---

F. W. Hannel. P.E.

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Engineering Statement in  
support of  
Motion to Strike Late-Filed "Reply"  
MM Docket 02-248

January 2003

ENGINEERING STATEMENT

This firm has been retained by New Ulm Broadcasting, ("NUB"), Licensee of Radio Station KNRG(FM), New Ulm, Texas to prepare this engineering statement in support of its Motion to Strike Late-Filed "Reply" of Linda Crawford, filed in this proceeding on December 20, 2002.

The Commission, on August 14, 2002 issued a Notice of Proposed Rulemaking in this proceeding seeking public comment on a proposal to assign FM Channel 280A the community of Smiley, Texas, as requested by Linda Crawford. In response to that NPRM, NUB filed a Counterproposal in this proceeding seeking, among other changes, the assignment of FM Channel 222C3 to Schulenburg, Texas as a first local service. Crawford filed an opposition to the NUB proposal in Reply Comments, and, on December 20, 2002 filed an additional pleading styled "Reply to Opposition to Linda Crawford Response". As a part of that December 20, 2002 filing, Crawford alleges that NUB made a "bogus" claim that the NUB proposal provided service to white area in Schulenburg and to an area southwest of Schulenburg, Texas. In support of that claim, Crawford attached an exhibit obtained from an internet service apparently called "radio-locator" and used that data as a basis for the technical portion of the filing.

Initially, it should be noted that the use of a non-technical service to document technical claims is unusual, to say the least, in rulemaking proceedings. The Commission's technical standards are well developed but are apparently unknown to whoever prepared the data contained in the Crawford pleading. Crawford, who should have known better than to rely on this flawed data, provided statements to the Commission that are patently offensive<sup>2</sup> to even

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<sup>1</sup> The date for Comments in this proceeding was October 21, 2002 and Reply Comments were due on November 5, 2002

<sup>2</sup> In fact, it is a serious matter to allege that a professional has made a "bogus claim" in an official Commission filing. While litigants often get immersed in rhetoric with one another, it is rare to have a litigant claim that a professional has submitted a "bogus claim" without any competent documentation whatsoever to support the statement. Participants in rulemaking proceedings, even pro-se participants, are charged with understanding the natural consequences of making unfounded allegations of professional misconduct in a public forum.



the most casual technical observer. The quantification of service as “very weak signal, weak signal, moderate signal, strong signal and very strong signal” is a new analytical approach in a rulemaking proceeding and the Commission has not yet adopted those technical standards. Perhaps Crawford could institute a rulemaking proceeding at some time to implement those standards; however, given the present state of the technology and of the Commission’s Rules, we are constrained to utilize the ancient techniques of our forefathers in proceedings before the Commission. Admittedly, this means that the technical analysis contains such terms as mvlm, RSS nighttime interference limits, dbu, as well as other highly technical terms, however, that is the language of the science, understandable to anyone having appropriate scientific background. Insofar as “good signal” and “bad signal” terms are easier to read, it is difficult to extract the precise technical meaning of those descriptions. The Commission expects a reasoned analysis that conforms to its adopted technical standards in allotment proceedings, not the filing of a plethora of ad hoc data for which not even a minimal foundation exists. The technical standards currently in use have been developed over decades of refinement, particularly since the implementation of the Communications Act of 1934, and as amended periodically as the state of the science matures. It is within those standards that NUB submits its analysis of the claim that:

“According to the attached Radio-Locator maps included in Exhibit C, the town of Schulenburg receives a 2.5 mV/m coverage from at least seven AM stations. These stations are: **KTSA**, **KLBJ**, **KKYX**, **KSEV**, **KSAH**, **KTRH** and **WOAI**. Additionally, the town of Schulenburg receives at least partial 60 dBu coverage from FM station **KTXM**. Therefore, the “white area” certified in the engineering statements filed by New Ulm is a bogus claim.”

### **Analysis**

In order to demonstrate that none of the stations obtained from “radio locator” in the Crawford filing provide nighttime coverage to Schulenburg, Texas and its environs, it is necessary to do a station by station analysis. As is shown below, none of the facilities listed in the Crawford filing provide nighttime service to the area, in direct contravention with the statements in the Crawford filing.

#### **Radio Station KTSA(AM) San Antonio, Texas**

Radio Station **KTSA(AM)** is a Class B facility operating on 550 kHz, licensed to San Antonio, Texas. The facility operates full time with a non directional antenna during daytime hours with a power of 5 kilowatts with an antenna efficiency of 676.545 mvlm. During nighttime hours the facility operates with a 4 tower directional antenna system with an efficiency of 663.050 mv/m. The nighttime hours transmitter site is located at N29-2949, W98-24-52, 147.7

kilometers from Schulenburg, Texas. The nighttime interference free contour is 7.301 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 66.972 km. Since the distance from the transmitter site of Radio Station KTSA(AM) and Schulenburg, Texas<sup>3</sup> is 147.7 kilometers, the interference free contour from KTSA(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station KLBJ(AM)  
Austin, Texas**

Radio Station KLBJ(AM) is a Class B facility operating on 590 kHz, licensed to Austin, Texas. The facility operates full time with a non directional antenna during daytime hours with a power of 5 kilowatts with an antenna efficiency of 676.545 mv/m. During nighttime hours the facility operates with a power of 1 kilowatt with a 4 tower directional antenna system with an efficiency of 289.68 mv/m. The nighttime hours transmitter site is located at N30-14-16, W97-37-47, 93.5 kilometers from Schulenburg, Texas. The nighttime interference free contour is 8.804 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 15.52 km. Since the distance from the transmitter site of Radio Station KLBJ(AM) and Schulenburg, Texas is 93.5 kilometers, the interference free contour from KLBJ(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station KYKX(AM)  
San Antonio, Texas**

Radio Station KKYX(AM) is a Class B facility operating on 680 kHz, licensed to San Antonio, Texas. The facility operates full time with a non directional antenna during daytime hours with a power of 50 kilowatts with an antenna efficiency of 2163.747 mv/m. During nighttime hours the facility operates with a power of 10 kilowatt with a 4 tower directional antenna system with an efficiency of 965.000 mv/m. The nighttime hours transmitter site is located at N29-30-03, W98-49-54, 187.6 kilometers from Schulenburg, Texas. The nighttime interference free contour is 9.616 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 18.48 km. Since the distance from the transmitter site of Radio Station KKYX(AM) and Schulenburg, Texas is 187.6 kilometers, the interference free contour from KKYX(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

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<sup>3</sup> In FM allotment proceedings, a gray area is a geographical region served by only 1 full-time aural service. A region not served by any full-time aural service is referred to as a "white" area. See Greenup, Kentucky and Athens, Ohio, 6 FCC Rcd 1493, (March 11, 1991).

**Radio Station KSEV(AM)**  
**Tomball, Texas**

Radio Station KSEV(AM) is a Class B facility operating on 700 kHz, licensed to Tomball, Texas. The facility operates full time with a 3 tower directional antenna during daytime hours with a power of 15 kilowatts with an antenna efficiency of 1147.000 mv/m. During nighttime hours the facility operates with a power of 1 kilowatt with a 3 tower directional antenna system with an efficiency of 289.7 mv/m. The nighttime hours transmitter site is located at N30-11-34, W95-35-40, 138.4 kilometers from Schulenburg, Texas. The nighttime interference free contour is 12.687 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 29.06 km. Since the distance from the transmitter site of Radio Station KSEV(AM) and Schulenburg, Texas is 138.4 kilometers, the interference free contour from KSEV(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station KSAH(AM)**  
**Universal City, Texas**

Radio Station KSAH(AM) is a Class B facility operating on 720 kHz, licensed to Universal City, Texas. The facility operates full time with a 3 tower directional antenna during daytime hours with a power of 10 kilowatts with an antenna efficiency of 915.9 mv/m. During nighttime hours the facility operates with a power of 890 watts with a 3 tower directional antenna system with an efficiency of 297.7 mv/m. The nighttime hours transmitter site is located at N29-31-51, W98-10-39, 124.4 kilometers from Schulenburg, Texas. The nighttime interference free contour is 11.394 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 3.22 km. Since the distance from the transmitter site of Radio Station KSAH(AM) and Schulenburg, Texas is 124.4 kilometers, the interference free contour from KSAH(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station KTRH(AM)**  
**Houston, Texas**

Radio Station KTRH(AM) is a Class B facility operating on 740 kHz, licensed to Houston, Texas. The facility operates full time with a 4 tower directional antenna during daytime hours with a power of 50 kilowatts with an antenna efficiency of 2110.830 mv/m. During nighttime hours the facility operates with a power of 50 kilowatts with a 4 tower directional antenna system with an efficiency of 2011.680 mv/m. The nighttime hours transmitter site is located at N29-57-57, W94-56-32, 191.8 kilometers from Schulenburg, Texas. The nighttime interference free contour is 12.339 mv/m, and the calculated distance to the interference free nighttime contour in the direction of

Schulenburg, Texas is 108.495 km. Since the distance from the transmitter site of Radio Station KTRH(AM) and Schulenburg, Texas is 191.8 kilometers, the interference free contour from KTRH(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station WOAI(AM)  
San Antonio, Texas**

Radio Station WOAI(AM) is a Class A facility operating on 1200 khz, licensed to San Antonio, Texas. The facility operates full time with a single tower with a power of 50 kw with an antenna efficiency of 2833.589 mv/m. The nighttime hours transmitter site is located at N29-37-07, W98-07-43, 120.2 kilometers from Schulenburg, Texas. The nighttime interference free contour is 7.225 mv/m, and the calculated distance to the interference free nighttime contour in the direction of Schulenburg, Texas is 73.054 km. Since the distance from the transmitter site of Radio Station WOAI(AM) and Schulenburg, Texas is 120.2 kilometers, the interference free contour from WOAI(AM) does not even come close to Schulenburg, Texas. The shortfall is so severe that an exhibit is not required.

**Radio Station KTXM(FM)  
Hallettsville, Texas**

Finally, the claim that Radio Station KTXM(FM), Hallettsville, Texas provides service to Schulenburg, Texas is clearly misplaced. In the original filing in this proceeding NUB shows the KTXM(FM) 60 dbu contour and there is no need to repeat it here. That contour was calculated and plotted as an exhibit in the original filing in full compliance with the Commission's Rules and NUB stands by that exhibit, notwithstanding any claim that a "Radio Locator" on the internet indicates something different. In view of the foregoing analysis, it is clear that if there is a "bogus claim" in this proceeding it is not NUB and the Commission should look elsewhere.

**Summary**

The foregoing analysis of the faulty data submitted in this proceeding clearly demonstrates that the technical presentation is totally without merit and should be disregarded, dismissed or otherwise disposed of in this proceeding.

CERTIFICATE OF SERVICE

I, Robert J. Buenzle, do hereby certify that copies of the foregoing Motion To Strike Late-Filed Reply have been served by United States mail, postage prepaid this 16th day of January, 2003, upon the following:

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